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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,402	01/15/2002	William C. King		5298

7590 03/25/2005  
JAMES D. WELCH  
10328 PINEHURST AVE.  
OMAHA, NE 68124

EXAMINER

DEXTER, CLARK F

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

80

<b>Office Action Summary</b>	<b>Application No.</b> 10/047,402	<b>Applicant(s)</b> KING, WILLIAM C.	
	<b>Examiner</b> Clark F. Dexter	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,8,11,12,14,15,19,20,27 and 31-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8,11,12,14,15,19,20,31-34 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 27,35 and 40-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The amendment filed on July 30, 2004 has been entered.

#### ***Claim Objections***

2. Claims 27, 31-40 and 45 are objected to because of the following informalities:

In claim 27, line 27, "rotatable" is improper and should read --rotatably-- or the like; in lines 33 and 42, "at least one" is inaccurate, and it seems that it should be changed to read --at least at one-- or the like.

In claims 31-34, line 5 of each claim, "rotatable" is improper and should read --rotatably-- or the like; in line 7 of each claim, "functionally" is misspelled; in line 11 of each claim, "at least one" is inaccurate, and it seems that it should be changed to read -  
-at least at one-- or the like.

In claim 35, line 2, "said" is misspelled.

In claims 36-39, line 8 of each claim, "at least one" is inaccurate, and it seems that it should be changed to read --at least at one-- or the like.

In claim 40, line 2, "controlling" is misspelled.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3724

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 8, 31, 32, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Raiski, pn 4,677,746.

Raiski discloses a chain saw with every structural limitation of the claimed invention including an elongated support (e.g., 2) that is slit in a longitudinal direction (e.g., 33 and/or the structure shown by cross section "c"), and control means (e.g., 17).

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 11, 12, 14, 15, 19, 20, 33, 34, 38 and 39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of applicant's U.S. Patent No. 6,769,187 in view of Raiska, pn 4,677,746.

Applicant's patent discloses a chain saw with almost every structural limitation of the claimed invention but lacks the claimed chain tensioning structure. Raiska discloses

Art Unit: 3724

a chain saw with such a chain tensioning structure and teaches that such an arrangement provides for easy and quick change of the cutter blade in field conditions. Further, it is well known to one having ordinary skill in the art that chain tensioning structures are a virtual necessity in order to facilitate efficient operation of a chain saw while getting the maximum tool life. Therefore, it would have been obvious to one having ordinary skill in the art to provide the chain tensioning structure of Raiska on the chain saw disclosed in applicant's patent for the well known benefits including those described above. It is noted that the Examiner's position is that it would have been equally obvious to modify Raiska with the addition of a chain brake as taught by applicant's patent for the benefits taught thereby including to stop the chain for reasons such as safety benefits.

#### ***Allowable Subject Matter***

7. Claims 41-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 27, 35, 40 and 45 are allowable over the prior art of record. It is noted that these claims have been objected to for informalities as described above.

#### ***Conclusion***

9. Applicant's amendments filed in response to the Office action mailed March 9, 2004 necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can be reached Monday, Tuesday, Thursday and Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Clark F. Dexter', with a long horizontal stroke extending to the right.

**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cf  
March 11, 2005